

**MINUTES OF THE REGULAR MEETING OF THE
SAN MARCOS PLANNING AND ZONING COMMISSION
COUNCIL CHAMBERS, CITY HALL
December 13, 2011**

1. Present

Commissioners:

Bill Taylor, Chair
Bucky Couch, Vice Chair
Sherwood Bishop
Kenneth Ehlers
Carter Morris
Chris Wood
Curtis Seebeck
Randy Bryan
Travis Kelsey

City Staff:

Matthew Lewis, Development Services Director
Francis Serna, Recording Secretary
John Foreman, Chief Planner
Christine Barton-Holmes, Chief Planner
Alison Brake, Planner
Abigail Gillfillan, Planner
John Stanley, Planner

2. Call to Order and a Quorum is Present.

With a quorum present, the Regular Meeting of the San Marcos Planning & Zoning Commission was called to order by Chair Taylor at 6:00 p.m. on Tuesday December 13, 2011 in the Council Chambers, City Hall, City of San Marcos, 630 E. Hopkins, San Marcos, Texas 78666.

3. Chairperson's Opening Remarks.

4. NOTE: *The Planning & Zoning Commission may adjourn into Executive Session to consider any item listed on this agenda if a matter is raised that is appropriate for Executive Session discussion. An announcement will be made of the basis for the Executive Session discussion. The Planning and Zoning Commission may also publicly discuss any item listed on the agenda for Executive Session;*

5. Citizen Comment Period

Camille Phillips, Franklin Drive stated that if we want to keep people in our neighborhood we need to keep them healthy enough to stay in their homes. Ms. Phillips is teaching courses in How to Not Fall for people over the age of sixty. She explained that the course is offered by Texas State and is free. The first course will be held at First Lutheran on January 4th Monday and Wednesday afternoon. She asked anyone interested to call First Lutheran Church at 392-2064. Ms. Phillips asked the Commission to vote against the Sessom-Loquat rezoning and others such as the Holland rezoning. She added that she supports students attending Texas State. She pointed out that the city needs to remain a community and wants people to live in San Marcos for a long time. Ms. Phillips mentioned that there are plenty of properties available that can be developed.

Ed Bolton, owner of Nexis Medical Consultant located at 101 Thermon Drive. He said he is before the Commission as a business owner and that he has an independent prospective. He pointed out that he does not do retail and does not have ties to the development. He said he employs people. Mr. Bolton added that we do need to educate people and keep them coming to Texas State but we need to keep people here and show them we are investing in them while they are students. Mr. Bolton stated that he does not want to speak on the negatives. He pointed out that there are a lot of valid points and also faults spread about the project. He added that we need to invest in our properties. Mr. Bolton brought up a couple of points that the project is a green project which takes care of Sessom Creek and the environment; project brings in much needed tax revenue.

Patrick Rose, 627 W. San Antonio Street asked what are you going to do with 14 acres across from the 36th largest university in the country? He stated that he strongly supports the project. He explained that the developer cares about the University and town; he is committed to the project; the developer has dedicated 5 acres of parkland; job creation that result in tax base which will be substantially beneficial to the community; our community success is related to Texas State success and vice versa. Mr. Rose pointed out that there is an opportunity for both the City and the University to thrive in this community. He explained that the University needs projects of this caliber. He added that in his opinion it is logical to have multi-family mixed use and student housing projects adjacent to the university. Mr. Rose asked the Commission for their support.

Chris Harness, 308 E. Melrose San Antonio, TX, Managing Director of the Casey Development Multi-family Group. Mr. Harness clarified that the project was originally named North Campus but the developer was informed that the name was used for a Texas State project directly across the street. He pointed out that there is no relation to their project and Texas State. Mr. Harness gave a brief overview of Casey Development based out of San Antonio, TX. He explained that they have constructed outstanding projects. They have state of the art design and construction process. Mr. Harness said he believes that this is a totally transparent project and they feel they have gotten the word out. He mentioned that as they continue to work with the community, they have incorporated several suggestions that city staff has come up with as well as the community. Mr. Harness asked for the Commission's support.

Greg Gibson, 814 Arron Parkway, San Antonio TX, Development Director for the Casey Development stated he will oversee the retail part of the project. He explained that they have had strong interest from tenants. He stated they are targeting nicer sit down restaurants, fast casual concepts, service oriented retail that would serve the community as well as the students. Mr. Gibson added that they are looking at speaking to people for coffee shops, smoothie businesses and book stores. He explained that the outdoor plaza will have multiple public seating and free Wi-Fi for the public. Mr. Gibson said they have received positive feedback and comfortable with community. He asked the Commission for their support.

Ted Barclay, 10403 Mt. Marey, San Antonio, TX. The Vice President of Design-Construction for Casey Development and Baxter Contracting explained that they have had many meetings with surrounding residents and many concerned interest groups. He stated that the building is a four story building, not seven stories. Mr. Barclay pointed out that they have removed detention as proposed; the development was 600 units now modified to 419 units; in addition they are modifying the design to improve the green nature of the project; the 12/24' water line will be outside of the retaining wall; the filtration will be handled by LID and LEED methods as suggested by Bill Couch and other city staff; bioswales, tree wells and roof gardens and terrace on the northeast corner that will have side drainage from the Scheib property. Sessom Creek will limit height to 10'. Mr. Barclay stated they will continue to review suggestions by the community and welcome any constructive comments.

Darren Casey, 405 Eldon, San Antonio, TX, stated he is involved for the long term with the City of San Marcos and the University, thanked the P&Z and knows it is difficult for all and is here to say he is involved for the long term with the City of San Marcos and Texas State University. Mr. Casey said he has instructed his team to build the best project for San Marcos and Texas State but also for it to be the greenest project possible that will allow it to be used as an example throughout the country and to show the transparency and involvement with the community. He added that they have reached out to the citizens that are concerned for the river and have considered their comments to make the project as sustainable as possible. Mr. Casey

commented that no one loves the creek and river more than he does. They are going to do everything scientifically possible to preserve the creek and river. He thanked everyone for their involvement and the opportunity. He asked the Commissioners for their support.

Steve Ramsey, Ramsey Engineering 3206 Yellow Pine Terrace, Austin Texas said he will speak on the civil engineering aspects of the project. He explained that they are no longer requesting storm water in the creek detention and is happy to report that they are going to provide onsite storm water detention within the project footprint. He added that the project limit of construction will not include disturbance of the existing creek. He reported that he is coordinating with the San Marcos River Foundation and their Engineering Consultant which will provide a second layer of review in addition to the city. Mr. Ramsey added that they have received a letter from the consultant and have made a preliminary review of the letter. He added that they disagree with the findings but will work with the issues and concerns raised and will come to a good solution for the project. He mentioned that they do agree with the Summary in which the State and City have mitigation regulations. Mr. Ramsey explained that the PDD does address mitigation aspects and does exceed State and Local Code requirements. He pointed out that he is contracted through the developer to provide the TPDS permit inspections during construction. He explained that he will inspect the erosion controls within 24 hours of each half inch rainfall or greater. He said if there is no rain he will be out on site every 14 days. He further explained he will write a report of the inspection and provide to the general contractor. Mr. Ramsey added that there will be daily logs.

Buck Scheib 503 Loquat stated that his property includes the 4.5 acres designated to become parkland. He explained when bars close at night, Loquat Street is used for people to go to apartments located behind them. He added that there have been ten accidents at night in the past eight years on Loquat. Mr. Scheib further explained that there are four houses on Loquat which two are empty. He pointed out that the area is no longer a neighborhood. They have listened to the concerns of the neighbors but no one has taken into consideration of the needs for the current Loquat residents. He explained that his family has been and is currently involved in many civic programs and always treats others with class and dignity. In addition they have been a steward of the land for 60 years but feels this is the time and proper way to let it go.

Harriet Raney, 328 Bluffcrest, San Antonio, Texas explained that her parents, Helen and Bob Van Gundy purchased 301 and 303 Loquat and two lots across the street. She explained how she grew upon the property and loved it. She said they have explored the property for four generations and have shared it with her children and grandchildren. Ms. Raney said they have listened and weighed carefully the proposals given by developers and did nothing until they heard from Darren Casey. She added that they investigated his quality of development. They feel it will stand the test of time. She added that this project will enhance the neighborhood. Ms. Raney stated that Darren Casey is involved emotionally, physically and financially with Texas State and the City of San Marcos. She asked the Commission to consider the request.

Melissa Derrick, 109 Kathryn Cove, Franklin Square stated they were currently rezoned from Low Density to Commercial and is not happy there and not happy that it is spreading throughout San Marcos. Ms. Derrick asked what considerations are being made to the Horizons Master Plan. She explained that when current property owners purchased their property they were under the impression that the area would be single family. She said she does not understand why the rezoning is being considered. Ms. Derrick also felt that the development would impact the river and damage the Edward's Aquifer. She asked the Commission to consider the Horizons Master Plan and what was promised to the citizens of San Marcos when making a decision for the request. Ms. Derrick recited the following: Goals Violated by Map adjustments and zoning changes: A. "A community that recognizes its unique environmental setting and actively works to protect the Edwards Aquifer, the San Marcos Springs, the San Marcos River, and other natural resources,...#157; B. "Goal 3 - Neighborhood Conservation/Revitalization Provide measures which will stabilize existing neighborhoods and protect them from deterioration or the encroachment of incompatible land uses....#157; These goals are recognized in the land use map definitions. Very low density residential land uses are characterized by single family detached homes on large lots, representing a density range of zero to three dwelling units per acre. Cluster-type developments are also allowed, as long as the overall density within a specific development or area does not exceed three dwelling units per gross acre. Policies Violated by Map adjustments and zoning changes: A. "Policy LU-3.10: The City shall protect existing stable residential neighborhoods from encroachment of commercial or higher density residential uses....#157; B. "Policy LU-1.1: The City shall ensure that all land use decisions are in accordance with the vision statement, goals, and policies in the Future Land Use Plan and other elements of the Master Plan....#157;

Jan Rudnicki, 123 Rideway Drive stated she was not present to talk about the Casey development but wants to speak as a representative of the west side of San Marcos. She said that she attended a meeting with the developers on the 5th. Ms. Rudnicki stated there was several issues discussed. She pointed out that that traffic has the most impact. She provided maps to the Commissioners for their review. She mentioned that the developers said they were going to redesign streets and that the city is going to pay for the redesign. Ms. Rudnicki added that a citizen commented if that is the case the citizens will pay for it. Ms. Rudnicki stressed on the impact on traffic that will occur with the Casey Development. She asked the Commission to please not consider the project.

Diane Wassenich, 11 Tanglewood advised the Commission that she has provided them with an email attachment through staff of the Dr. Lauren Ross report regarding Engineering Review of Water Quality and Drainage Issues Associated with the Proposed Casey Development. She pointed out the difference between this project and the Conference Center which was proposed for above Spring Lake is that a great location was found for the Conference Center that will not harm the river. Ms. Wassenich hopes this could also happen for this project. Ms. Wassenich read the summary of Dr. Ross' report which states that the proposed PDD will significantly contribute to increase storm flows that would tear out the banks and pour more dirt into the river. The effect of the changes would not be fully mitigated by the terms in the proposed PDD entitlement agreement because of the size of the development, its high impervious cover and location in sensitive head water of the creek and slope of land. She continued to say that the potential likelihood of erosion, flooding, water quality of degradation is correspondently high. The State and the City regulations nor this proposed development agreement require mitigation of these consequences. Ms. Wassenich pointed out that we do not have the specifics of the agreement to make a decision at this time. She urged the Commission to get the information and understand the charts and graphs that Dr. Ross provided before a decision is made. She stated she would not address traffic issues because the river is the real issue that should be addressed.

Jim Harrison, 111 Canyon Road stated he has lived there for thirty five years. He does not want project in his neighborhood. He asked why anyone would allow a multi family project in a single family neighborhood. Mr. Harrison asked that they move the project to a different location because he and his neighbors do not want it in their neighborhood.

Vincent Debrock, 100 W Hillcrest said he heard about the project two-three weeks ago. He said he moved to San Marcos in 98'. He added that the river and lake make San Marcos and without it the campus would not be here. Mr. Debrock mentioned that development at the top of the river should be carefully considered when it impacts the river and a residential neighborhood. He pointed out that 80% impervious cover will make the water flow go to retention pond and be a loss for the recharge area. He said we are at a time when everyone is talking about water conservation and should consider projects that focus on water conservation. Mr. Debrock there is a counter proposal for a nature preserve. He pointed out that there are currently 14,000 beds in apartments and multi-family development many of which are located near his neighborhood. Mr. Debrock stated we don't need more beds.

Jim Garber, 104 Canyon Fork heard the best way to approach this development is to keep emotions low and keep to the facts. He felt that facts are nonexistent. He pointed out that once again they had heard a new plan for the water detention. Mr. Garber pointed out that no one has done a pedestrian study. He said there are currently 1000 people crossing on Sessom and that is a big problem. Mr. Garber felt that a pedestrian study is as important as a traffic study. He asked where the study for security in the park was; how is the development going to be controlled or patrolled? Mr. Garber asked if the new development would compare to Sagewood with all the trash. He asked about the impact of noise, where is the study on noise and the stability of the hillside. He said we have a long way to go to finding the facts. He said he is not asking the Commission to vote no but asked the Commission to table the request until they can get more information. If no more information is provided then the right thing to do is vote no.

Larry Mock, 107 Canyon Road asked if any of the Commissioners have walked the walk from Alamo Street to LBJ through the woods on Sessom Creek. He urged the Commission to take the walk before making any zoning changes. Mr. Mock stated that somehow we have been convinced that more is better but better is a better judge of quality of life than quantity of life. Quality of life is different from most cities. He explained that Mensor Corp. moved to San Marcos for the quality and quantity but know that quantity only follows quality products. He felt that we can do more with less. He suggested that more manufacturers will move to San Marcos if they believe quality of life trumps the quantity of development that we have. Mr. Mock encouraged the Commission to walk this walk before voting on any zoning changes.

Jaimy L. Breihan, 134 E. Hillcrest, said he knows that the landowners want to sell their property and it's all about money. He said there should be a plan but developing the property is not the plan. He pointed out the property has been untouched for 1000's of years other than the kids than ran around on the property. He added that the canyon goes down to the river and that the natural resources will be gone. Mr. Breihan stated that the development will degrade the quality of life in the neighborhood. He added that there is currently plenty of empty building in San Marcos. He stated the development will not enhance the city and does not see the need to build in the area. Mr. Breihan said there are plenty of other properties to build buildings but not in that location.

Maeghen Strahm, 1328 Chestnut Street stated she has been in the construction industry for 9 years and has her own business doing water quality, watershed and environmental remediation and water mediation for City of Austin. She remediates the water quality detention ponds similar to one showing on the site plans. Ms. Strahm mentioned that she currently does not work in San Marcos because San Marcos does not have very strict water quality regulations in place. She thinks that the Planning & Zoning Commission needs to look at the water quality that is in place now for a project of this size. Ms. Strahm stressed that the environmental studies need to be looked at. She is concerned what the development will do to the value of her home. She added that the area is currently fighting R1 zoning. The inconsistency of the project is also an issue. Ms. Strahm felt that the project should be postponed because there are not enough facts and needs more studying and public awareness for a project of this size.

Carlos Cedilla, 1200 MLK provided the Commission with pictures of the property. He said it was the heart of the land. Mr. Cedilla deferred the remainder of his time to Nancy Moore.

Nancy Moore, 15 Tangelwood asked the Commissioner to protect San Marcos and the Historic River. She called the city attorney and asked the definition of spot zoning. She said the city attorney responded that no one on city staff has ever asked him the questions. She suggested that staff find out the definition of spot zoning. Ms. Moore read the definition she found on the internet for spot zoning. She explained and expressed concerns regarding the increase in traffic to Sessom. She asked the Commission to stop the insanity.

6. Discussion regarding the joint Planning and Zoning Commission and City Council workshop related to Population Analysis and Future Growth Areas and provide direction to staff.

Staff reported the need to reach consensus on the city's population and asked the Commission in what direction to do they want to see growth for the upcoming Comprehensive Plan. The Commission recommended that staff encourage growth to east rather than the Hill Country and also to determine the fiscal impact.

Consent Agenda

7. Consider the approval of the minutes from the Regular Meeting on October 25, 2011 and November 22, 2011.

8. PC-11-40 (South End San Marcos Section One) Consider a request by Carlson, Brigance, and Doering, on behalf of Carson Diversified Land 1, LLC, for a final plat for approximately 2.010 acres, more or less, located along the north side of Wonderworld Drive between Stagecoach Trail and Corporate Drive.

MOTION: Upon a motion made by Commissioner Seebeck and a second by Commissioner Wood, the Commission approved on consent to approve the minutes of the Regular Meeting of November 22, 2011 with corrections and PC-11-40.

Public Hearing

9. CUP-11-18 (Black Rabbit Saloon (currently Dillinger's)) Hold a public hearing and consider a request by FSW Ventures, LLC, on behalf of WC Williams Estate, for an amendment to an Unrestricted Conditional Use Permit allowing on-premise consumption of mixed beverages at 127 E. Hopkins.

Chair Taylor opened the public hearing. Brian Scofield, representing FSW Ventures, LLC said he owns Bar 41 and the property at 141 E. Hopkins. He explained that they intend to upgrade the building similar to the request from Harper's Hall. He asked what the prerequisites for the renewals were after the initial approval. There were no additional citizen comments and the public hearing was closed.

MOTION: Upon a motion made by Commissioner Seebeck and a second by Commissioner Ehlers, the Commission voted on consensus to approve CUP-11-18 with the conditions that the permit shall be valid for one (1) year, provided standards are met, subject to the point system; all required permits shall be obtained, and all required inspections shall be performed.

10. CUP-11-19 (Zelicks) – Hold a public hearing and consider a request by Zelicks Inc., on behalf of Kevin Katz, for the renewal of a Conditional Use Permit allowing on-premise consumption of mixed beverages at 336 West Hopkins.

Chair Taylor opened the public hearing.

Chris Jones, 206 Kaybarn said he was present to speak on this issue because this was an issue he had left during his tenure at City Council. He said he was not in favor or against the request. He asked the Commission to make a recommendation to Council that they adopt some form of policy that addresses noise issues when there is a business next to another business. Mr. Jones added that we are all a community and we are here to see that everyone is successful. He suggested that conditions be added to the request if their request is approved.

Barry James owns the Young Building at 321 W. Hopkins which is a multipurpose building with apartments upstairs across from Crystal River Inn. He explained that when the original request was submitted it was not presented as an open outside bar. Mr. James pointed out that they did not explain that they would have garage doors that would open up and have loud music. He pointed out that the business fills up Mr. Tidwell's strip center parking lot located next to his property. He mentioned that he does not dislike students but does not like bar patrons that are very noisy. Mr. James said that the request was presented as a neighborhood bar similar to Cheers. He said he wished that the request was accurately presented. Mr. James said the owners say they have to make money but we have invested money since 1986 and he also needs to make money.

Naomi Braden, House Director for Alpha Delta Pi, 316 W. Hopkins was asked to read a letter for Dr. & Mrs. Tidwell, Pecan Plaza shopping center owners, located across the street from Zelick's. The Tidwell's were unable to be here tonight but have strong feelings about use of their property by Zelick's patrons. The letter further explained that when the Tidwell's developed their property they were required to prove there was enough parking for the centers. They felt that the Centers could have been bigger if city allowed them to utilize street parking and adjacent lots the same way Zelick's is doing. She pointed out that Zelick's does not have sufficient parking and feels it is unfair. In addition the center parking lots are jam packed after 11:00 p.m. many nights during the week with trash and insurance issues. The Tidwell's have asked them not to use the parking lot but it continues to happen. They wished Zelick's much success and respectfully asked City Government to treat all taxpaying businesses both old and new fairly. The Tidwell's feel they are being abused and the Zelick's should not be allowed to renew their permit but encouraged to build their late night business outside the city limits where there is plenty of parking and no neighbors to bother.

Ryan Perkins, 727 W. Hopkins thanked staff and the Commission for addressing the issue. He also thanked the Katz brothers for their success in San Marcos. He didn't think that the Katz brothers should be punished or treated differently than the last time they were before the Commission. Mr. Perkins added that they have made any concessions for the sake of being good neighbors and they deserve to be treated fairly. Mr. Perkins pointed out that there are a lot of issues with bars and noise. He explained that the property is

surrounded by T5 zoning within the SmartCode District and should not be asked to restrict their games or reduce their hours. He added that he is a neighbor and a patron of the bar and thinks that most of his neighbors that live in the Heritage District frequent Zelick's. They also have people from out of town that ask them if they are interested in opening a bar similar to Zelick's in their city limits. Zelick's is a success and the two young entrepreneurs should be applauded and commended for their success. Mr. Perkins asked the Commission to renew the request for 3 years with no conditions.

Sandra Kirk, 811 Furman St., stated she attended a wedding at Crystal River Inn and was concerned because the beautiful occasion was ruined by noise from the bar. The noise was from the horseshoe throwing, motorcycle noise and loud music. She explained that they could not enjoy and hear the ceremony due to the noise from Zelick's. Ms. Kirk pointed out that guests were planning to stay at hotel but decided not to stay there because of the noise. The noise was so loud they could not enjoy the wedding. She asked why should we run out one business to accommodate another business.

Chase Katz, 225 Comanche, TX State Alumni and resident of San Marcos. He owns Dos Gatos Bakery and Zelick's with his brother Seth Katz. He explained that they own a home and a business within the SmartCode District. He said Seth and himself have large financial investment in San Marcos. Mr. Katz stated that they are 100% in compliance and have no violations. Mr. Katz strongly encouraged the Board to approve the CUP. He added that they understand the issues and prior to breaking ground they met with the Dillon's. He explained that both businesses are within the heavily traveled business district. Mr. Katz stated that they want to be good neighbors with the fence that lies within 5 feet on their property and they have chosen not to remove the fence. He feels that they have respected neighbors with no outdoor noise. He pointed out that they are in their legal right to have outdoor speakers but have chosen not to. He further explained that the Dillon's came to them and asked them to pick up games and they immediately sound dampened the games. Mr. Katz added that they have had numerous meetings with the Dillon's they informed them they had previous noise issues with noise on Hopkins and had installed windows and have offered to pay for installing additional plexiglass windows to reduce the noise which the Dillon's refused.

Seth Katz, 225 Comanche said although the businesses are similar they are different in some respects. They Dillon's have taken an old building and rebuilt them as they have done. In addition, they have received a Historic Landmark Award as well as the Inn. He said neither business deserves to exist more than the other. Mr. Katz added that they share the same customers and at times have entire wedding parties come to the establishment. He pointed out that there have been several weddings at the Inn where music can be heard at Zelick's. Mr. Katz added that they have complied with requests by the Dillon's. He explained that they have no violations and that the renewal should be granted for 3 years. Mr. Katz encouraged the Commission to approve the request.

Brenda Smith, owner of property at 323 W. Hopkins, across the street. She explained that most nights until 2 a.m. or 2:30 a.m. the noise is so loud it's as if she is listening to the radio in her car. Ms. Smith is requesting that there be no music. She said whatever is done tonight needs to be specific and measurable. She explained that when she has spoken to them, they respond that there is nothing they can do because they can't control the volume or noise. Ms. Smith said when they have the music on inside and the doors open everyone must speak loudly and the noise carries outside. She felt that this is not a livable environment. She suggested if the permit is approved that the request be approved for one year with no music allowed.

Christian Johnson, 323 W. Hopkins said he recently moved to that location. He explained that there is extreme loud noise and is causing him problems.

Clay Stevens stated he lives directly behind Zelick's. He said that Chris Jones nailed the points that need to be addressed. Mr. Stevens told the Commission that he lives and teaches in San Marcos. Mr. Stevens added that he enjoys living downtown but the issue is something that needs to be explored and doesn't see how others can tolerate much more. He said he likes both the Crystal River Inn and Zelick's and hopes something can be resolved. Mr. Stevens had no comments against either the Crystal River Inn or Zelick's.

Kathryn Tracy, 901 Franklin lived at 322 W. Hopkins Ste. B for 12 years until Zelick's opened on May 13th. She explained that two weeks later she gave notice that she would be moving because of the noise from Zelick's. Ms. Tracy said the constant noise from the washers, horseshoes and bottles being thrown away would not allow her to sleep. She stated that she has spoke to the Zelick's and they have told her that there is no law against turning up the music for their employees to clean up. At that point she felt that there was no hope and knew she had to move.

Kathy Dillon, co owner of Crystal River Inn stated that what is difficult is that Zelick's is an awesome place and a good use of historic building. She explained that it's the beauty and charm of San Marcos that has brought guest to their Inn and has made them one of the oldest family-run bed and breakfast in the State. Ms. Dillon pointed out that they contribute taxes to the city as well as Zelick's. She stated that Zelick's is angelic until around until 11:00 p.m. until 2:00 a.m. Ms. Dillon mentioned that the business model that was brought before them 18 months ago is not the current model that exists today. She read the Noise Ordinance passed by City Council in 2009. She explained that she bought a decibel meter because the police said they do not have one. She felt that discussions should be made to address the problem of no decibel meters. Ms. Dillon pointed out that she has stood in the middle of her property with the decibel meter which reads about 65-70 decibels.

Carl Brown, 834 W. Hopkins, said he is in support of Zelick's and The Crystal River Inn where he has done business at both locations. Mr. Brown explained that he had a daughter that got married over the Thanksgiving holidays at Crystal River Inn. He was concerned about the venue because of what was located next door. He said he was pleased to find that he could have a wedding which ended around 11 p.m. Mr. Brown added that he did have some complaints from some of the wedding party that stayed at Crystal River Inn. Mr. Brown mentioned that he lives a few blocks away and on weekends is awoken about 2 or 3 in the morning from people walking and talking rather loudly coming from Zelick's. He asked if there can be a resolution on the noise issue and protecting the people that have been in the neighborhood trying to sleep and that the Commission not grant the permit.

Rick Coach, local business owner, stated he was present in support of Zelick's. He explained he has been in San Marcos for awhile. He remembers the two slogans, Keep San Marcos Beautiful and We'd Love Your Company. Mr. Coach said Zelick's embodies the slogans well. He explained that Zelick's is not your typical San Marcos College Bar; it is a beautiful community bar. He asked the Commission to support Zelick's.

Diane Wassenich, 11 Tanglewood stated she has known Mike and Kathy Dillon for 30 years when they first began to remodel the building. She said she is appalled to see that after 27 years of promoting tourism in San Marcos that the Dillon's would be put in position to really go out of business because of what was placed next door to them. She added that the establishment was not represented as the type of establishment is it today. Ms. Wassenich mentioned to the Commission if they want a 6th Street of Austin, to continue to allow things like this to happen in a residential area. If the Commission wants to support business they will have to get concessions from Zelick's because it seems as if they do not want to do concessions.

Rose Brooks stated she has been in San Marcos for 70 years. She said she voted for bars to remain open until 2:00a .m. but not to disturb neighborhoods. Ms. Brooks stated that the owners of Crystal River Inn run an excellent business. She said the Crystal River Inn is good for tourism. She expressed concerns regarding noise issues from Zelick's. Ms. Brooks pointed out that she would like to see the Dillon's stay in business. She encouraged the Commission to do the right thing.

Mike Dillon, husband of Cathy Dillon, runs the Crystal River Inn, explained that over a year ago Dr. Katz, his wife and sons came over and advised them that they purchased the property next door. He said the Katz' informed them that they wanted to open a fern bar with acoustics. Mr. Dillon said that Zelick's is the best looking bar in town. He explained that when the business opened, it was not what they got. There were issues with the games and the Katz' took care of it. Mr. Dillon felt that they can work out the noise issues with the Katz'. He said he saw the sign that states 'bikers welcome' and knew there would be an issue. Mr. Dillon explained when bikers leave, the noise is unbearable. He said they have spoke to the Katz' and were told to take care of it themselves. He explained they have tried to mitigate the issue with installing double pane glass, heavier drapes and installed an ac unit downstairs, which has not relieved the noise issues. Mr. Dillon suggested if the Commission approve the request, the request approved for one year to allow them to work things out.

Megan Strahm, 1328 Chestnut, said she frequents Zelick's and sees the two sides of issues. She explained the issue that she has is that the Commission granted Zelick's permission to open the bar next to a bed and breakfast. Ms. Strom stated that the two gentlemen are outstanding citizens of the community and trying to be the new people coming up and developing the town. She feels that it is unfair to go backwards after everything has been granted.

There were no additional citizen comments and the public hearing was closed.

MOTION: Upon a motion made by Commissioner Morris and a second by Commissioner Kelsey, the Commission voted on nine (9) for and zero (0) against the motion to approve CUP-11-29 for six (6) months to allow Zelick's and The Crystal River Inn to work out the issues. The motion carried unanimously.

There was a 15 minute recess.

11. LUA-11-25 (Blanco River Village- Living Court Units) – Hold a public hearing and consider a request by the City of San Marcos for a Land Use Map Amendment from Low Density Residential (LDR) to Medium Density Residential (MDR) for the existing Living Court Units described as approximately 10.347 acres of land in Blocks E, F, H, and I of the amending plat of the Blanco River Village Subdivision and located east of Shadow Point along Rush Haven and north of Trestle Tree.

12. PDD-11-13 (Blanco River Village PDD) – Hold a public hearing and consider a request by the City of San Marcos for an amendment to the existing PDD and Concept Plan Overlay District for a 103.788 acre, more or less, tract of property located in the 1400 – 1900 blocks of State Highway 21 in the Blanco River Village Subdivision.

Chair Taylor opened the public hearing.

Terry Mitchell, partner in partnership of undeveloped land stated they are committed to working with TX DOT regarding turn lanes. He added that there are no additional changes and thanked the Commission for their time.

Jake Jacobson, 405 Shadow Point stated he has had the opportunity to speak with the folks with Bigelow and Mr. Mitchell since the last meeting. Mr. Jacobson said he is in support of the continuation of development providing the land details have been addressed. He added that he would provide photos to the Commission. He suggested that a secondary access be developed during construction. Mr. Jacobson mentioned that one of his concerns include turning the second phase of the development into high density residential. He suggested that the Commission include conditions to clean up the site; complete pad sites currently begun; that sidewalks are provided within 50 feet of sales office; and remove the fence currently in place. He continued stating the developers put a fence around sales office and now people have to walk on the street to get to the sales office. Mr. Jacobson stated that with the few changes he felt the HOA would be in full support of the request.

Deb Baheiser, 125 Rushhaven, Blanco River Village neighborhood said she is in support of single family homes. She explained that she purchased a home in San Marcos during the city incentive programs being offered. Ms. Baheiser pointed out that if the development is allowed she might as well live in Austin. She bought the home because it is a single family neighborhood.

There were no additional citizen comments and the public hearing was closed.

MOTION: Upon a motion made by Commissioner Bishop and a second by Commissioner Bryan, the Commission voted all in favor to approve LUA-11-25 and PDD-11-13. The motion carried unanimously.

13. LUA-11-27 (301 Second St) – Hold a public hearing and consider a request by Shane Scott for a Land Use Map Amendment from Low Density Residential (LDR) to Mixed Use (MU) for Lot 41 of the AM Ramsey Subdivision, located at 301 Second Street.

14. ZC-11-41 (301 Second St) – Hold a public hearing and consider a request by Shane Scott for a Zoning Change from Single Family-6 (SF-6) to Mixed Use (MU) for Lot 41 of the AM Ramsey Subdivision, located at 301 Second Street.

Chair Taylor opened the public hearing. There were no citizen comments and the public hearing was closed.

MOTION: Upon a motion made by Commissioner Wood and a second by Commissioner Morris, the Commission voted all in favor to approve LUA-11-27 and ZC-11-41. The motion carried unanimously.

15. LUA-11-28 (418 Holland St) – Hold a public hearing and consider a request by Paula Artale for a Land Use Map Amendment from Low Density Residential (LDR) to Mixed Use (MU) for approximately 0.274 acres out of the Thomas J. Chambers Survey, Abstract No. 2, located at 418 W. Holland Street.

16. ZC-11-42 (418 Holland St) - Hold a public hearing and consider a request by Paula Artale for a Zoning Change from Single Family Residential (SF-6) to Mixed Use (MU) for approximately 0.274 acres out of the Thomas J. Chambers Survey, Abstract No. 2, located at 418 W. Holland Street.

Chair Taylor opened the public hearing.

Paula Artale, owner of the house introduced her daughter Sarah, who resides in the home. Ms. Artale explained that she purchased the home for her daughter to live in with possible roommates so that she could live in San Marcos. She pointed out that they do not know anything about zoning. Ms. Artale stated she wants the house to be single family but with zoning it only allows two people to live in the home. She pointed out that the house is a three bedroom, two bath home and want to allow three people to reside in the home. She said that the policeman advised her that they would monitor the home between 10 p.m. – 2 a.m. to make sure there are only two people residing in the home. Ms. Artale said she was uncomfortable with the policeman's response. She asked the Commission how they can be in compliance.

Kenneth Deez, 1412 Alamo St. said the request to rezone the property on Holland Street is a way for property owners to avoid the single family zoning restrictions. He pointed out that the zoning restriction is to protect the privacy and stability of the residents that live with that zoning. He stated that a mixed use zoning is a potential resale for the future owner. Mr. Deez informed the Commission that he spoke to the city attorney and was advised that spot zoning is not legal. He added that spot zoning has been going on for some time and it is time for spot zoning to stop. Mr. Deez stated that it seems that neighborhoods have to fight with the city to stop particularly in the established single family neighborhoods. He added that the city should be working with established neighborhoods rather than advocate for the developer. He said he thinks that many established neighborhoods are being changed to rental subdivisions. Mr. Deez asked the Commission to look strongly at the people that have lived in the neighborhood for many years and he encouraged the Commission to deny the request.

Terry McCabe, 1315 Alamo asked the Commission to deny the zoning change. He said that he counted twelve houses between Sessom and Holland that are occupied by renters. Mr. McCabe stated that only nine houses are owner occupied. He said that the city needs to tighten the zoning codes and encourage the codes to be enforced.

Irene Hindson, 1410 Alamo Street stated she agrees with everything that has been said. She added that the problem with changing the zoning is that once the zoning and land use is changed, you can't go back. Ms. Hindson stated this is a situation that the city needs to deal with. She suggested that the City Council may offer a CUP for situations that a CUP is appropriate.

MOTION: Upon a motion made by Commissioner Morris and a second by Commissioner Bishop, the Commission voted all in favor to deny LUA-11-28 and ZC-11-42. The motion carried unanimously.

17. LUA-11-29 (412 Holland St) – Hold a public hearing and consider a request by Leola Gourley for a Land Use Map Amendment from Low Density Residential (LDR) to Mixed Use (MU) for a one acre tract out of the Thomas J. Chambers Survey, Abstract No. 2, located at 412 W. Holland Street.

18. ZC-11-43 (412 Holland St) – Hold a public hearing and consider a request by Leola Gourley for a Zoning Change from Single Family Residential (SF-6) to Mixed Use (MU) for a one acre tract out of the Thomas J. Chambers Survey, Abstract No. 2, located at 412 W. Holland Street.

Chair Taylor opened the public hearing.

Leola Gourley, has lived at 1414 Owens Street since 1958. She explained that they originally purchased the property for their parents to live in but they since have passed. She said that her grandson is going to Texas State and living in the home. Ms. Gourley added that they do not have any plans to do anything with the one acre located behind the property. She is requesting that the boys continue to live in the home for another year. She added that the boys are good neighbors and have never received any violations. Ms. Gourley stated she would appreciate it if they can do anything to allow the boys to live in the home.

Diane McCabe, 1315 Alamo Street stated they have lived in the home since 1989. She added that they love living in their home and walking to work at the University. Ms. McCabe said the neighborhood is changing but hopes that the Commission does not change the zoning for the Holland Street properties. Ms. McCabe added that the guys are great neighbors and wish there is something that can be worked out.

Kenneth Deez, 1412 Alamo Street said he just wanted to reiterate what has been said. He stated that it is not about the people living there, but about zoning enforcement. Mr. Deez said they get excuses from Code Enforcement about enforcement. He added that it is time for Planning and Zoning and the City to do some things to help out the families and neighborhoods.

Paula Artale, 418 Holland, agree with the other speakers. She said it seems that there should be a zoning classification between single family and multifamily. She added that they also do not want apartments located by the house. She asked the Commission for help.

MOTION: Upon a motion made by Commissioner Morris and a second by Commissioner Bishop, the Commission voted all in favor to deny LUA-11-29 and ZC-11-43. The motion carried unanimously.

Consideration:

Commissioner Morris recused himself from the discussion and vote on items 19-21.

19. LUA-11-24 (Casey Development (North Campus Housing)) – Consider a request by ETR Development, on behalf of Darren Casey Interests, Flow Wilks, Harriett Rainey, Christian and Diana Espiritu, Everette and Donna Swinney and Buck Schieb for a Land Use Amendment from Low Density Residential (LDR) to Mixed Use (MU) for approximately 13.51 acres located at Sessom Drive at Loquat Street.

20. ZC-11-38 (Casey Development (North Campus Housing)) – Consider a request by ETR Development, on behalf of Darren Casey Interests, Flow Wilks, Harriett Rainey, Christian and Diana Espiritu, Everette and Donna Swinney and Buck Schieb for a Zoning Change from Single Family Residential- 6 (SF-6) to Mixed Use (MU) for approximately 13.51 acres located at Sessom Drive at Loquat Street.

21. PDD-11-12 (Casey Development (North Campus Housing)) – Consider a request by ETR Development, on behalf of Darren Casey Interests, Flow Wilks, Harriett Rainey, Christian and Diana Espiritu, Everette and Donna Swinney and Buck Schieb for a PDD overlay district, with a base zoning designation of Mixed Use (MU), for approximately 13.51 acres located at Sessom Drive at Loquat Street.

AMENDED MOTION TO THE MAIN MOTION: Upon a motion made by Commissioner Wood and a second by Commissioner Seebeck, the Commission voted all in favor to include the conditions to the main motion that the onsite detention facility not be located in the creek channel; an acceleration lane be created; and proper pedestrian signalization be implemented for. The motion carried unanimously.

MAIN MOTION: Upon a motion made by Commissioner Couch and a second by Commissioner Ehlers, the Commission voted four (4) for and (4) against to approve the main motion with conditions for LUA-11-24; ZC-11-38; and PDD-11-12. The motion to approve with conditions failed. Commissioners Kelsey, Bishop, Bryan and Seebeck voted no. The motion carried.

MOTION: Upon a motion made by Commissioner Bishop and a second by Commissioner Kelsey, the Commission voted four (4) in favor and four (4) against to deny LUA-11-24; ZC-11-38; and PDD-11-12. The motion failed. Commissioners Couch, Ehlers, Seebeck and Taylor voted no. The motion failed.

MOTION: Upon a motion made by Commissioner Bryan and a second by Commissioner Seebeck, the Commission voted two (2) in favor and six (6) against to postpone LUA-11-24; ZC-11-38 and PDD-11-12 until the January 10th Planning & Zoning Commission meeting. The motion failed.

22. Discussion Items.

Commission members and staff may discuss and report on items related to the Commission's general duties and responsibilities. The Commission may not take any vote or other action on any item other than to obtain a consensus regarding items that will be placed on future agendas for formal action.

The Commissioners thanked Commissioner Bishop for his service to the Planning Commission. Commissioner Bishop said he enjoyed working with fellow Commissioners and staff.

Development Services Report

Matthew Lewis thanked Commissioner Bishop for all his hard work.

Commissioners' Report.

There were no reports.

23. Questions from the Press and Public.

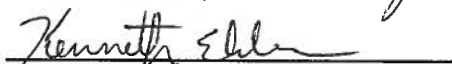
Irene Hindson mentioned that there is an ordinance regarding not being allowed to park in the grass. Ms. Hindson pointed out that if not being allowed to park on the grass is enforced then possibly there would not be issues related to single family residential zoning. She suggested that realtors have a zoning information form that they can provide to clients prior to purchase of a property.

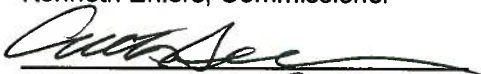
24. Adjourn.


Chair Taylor adjourned the Planning and Zoning Commission at 11:25 p.m. on Tuesday, December 13, 2011.



Bill Taylor, Chair


Sherwood Bishop, Commissioner


Kenneth Ehlers, Commissioner


Curtis Seebeck, Commissioner


Randy Bryan, Commissioner


Bucky Couch, Vice Chair


Chris Wood, Commissioner


Carter Morris, Commissioner


Travis Kelsey, Commissioner

ATTEST:


Francis Serna, Recording Secretary

CITY OF SAN MARCOS
DISCLOSURE AFFIDAVIT-BUSINESS ENTITY

STATE OF TEXAS
COUNTY OF HAYS

The undersigned member of the City of San Marcos P12, (name of City Board, Commission, etc.) states under oath as follows:

I have a substantial interest in a business entity that may be involved in a vote or decision of the governmental body described above, and the vote or decision may have a special economic effect on the business entity that is distinguishable from the effect on the public. The name of the business entity is

Raul Morin & Associates

The nature and extent of my interest in the business entity is as follows: (check all that apply)

☐ Ownership of 10 percent or more of the voting stock or shares of the business entity.

☐ Ownership of 10 percent or more of the fair market value of the business entity.

☐ Ownership of \$5,000 or more of the fair market value of the business entity.

☒ Funds received by me from the business entity exceed 10 percent of my gross income for the previous year. Future

☐ The interest described above belongs to a person related to me in the first degree by consanguinity (natural kinship) or affinity (marriage). Relative's name and relation.

☒ Apparatus

The vote or decision involving this interest is on 12/13, 20 11 agenda of the governmental body, and is described as follows: #19, #20, #21

LUA-11-24; ZC-11-38; PDD-11-12

EXECUTED this 13 day of December, 20 11.

Signature

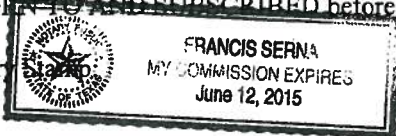
Carlos Morin

Printed Name

Carlos Morin

SWORN TO AND SUBSCRIBED before me on the 13 day of December, 20 11.

Notary



Notary Public
State of Texas

Francis Serina

FILED this 13 day of December, 20 11.

Samuel Allighan
City Clerk of the City of San Marcos

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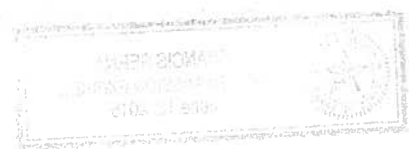
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